

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Sharon W. Erickson,  
City Auditor

**SUBJECT: *REVIEW OF AMERICAN RECOVERY  
AND REINVESTMENT ACT FIRST  
QUARTERLY REPORTS***

**DATE:** November 12, 2009

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## RECOMMENDATION

We recommend that the City Council accept the City Auditor's report on the "*Review of American Recovery and Reinvestment Act First Quarterly Reports*".

## SUMMARY

Through September 30, 2009, the City of San José (City) has been awarded over \$77 million in American Recovery and Reinvestment Act (Recovery Act) funds<sup>1</sup> and spent approximately \$6.1 million. Approximately \$3.2 million has been reimbursed or advanced to the City. Thus far, the City's Recovery Act programs have created approximately 250 full-time equivalent jobs.<sup>2</sup>

In June 2009, the City Auditor's Office assessed the City's readiness to receive Recovery Act funding and determined that the City was making appropriate progress.<sup>3</sup> Since that report, the City:

- Submitted its reports prior to October 10, 2009, thus meeting the Recovery Act's reporting deadline.
- Established accounting controls to track Recovery Act expenditures.
- Established an internal checklist to ensure compliance with Recovery Act requirements.
- Made progress towards implementing Recovery Act tracking and reporting software.
- Posted relevant information on the City's website, including the Recovery Act certifications.

Based on our review, the City met the Recovery Act's transparency and accountability requirements for quarterly reporting. The City Auditor's Office will continue to monitor Recovery Act spending and internal controls.

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<sup>1</sup> In October 2009, the City was awarded a grant through the Department of Energy's Solar Market Transformation program, bringing the City's total awards to over \$78 million.

<sup>2</sup> The 250 full-time equivalent positions included over 900 part-time jobs in a summer youth employment program.

<sup>3</sup> City of San Jose City Auditor, *American Recovery and Reinvestment Act Preliminary Report on Internal Controls*, June 18, 2009, <http://www.sanjoseca.gov/auditor/AuditMemos/0695/0695M.pdf>.

## **BACKGROUND**

President Obama signed the American Recovery and Reinvestment Act (Recovery Act) into law on February 17, 2009. The stated purposes of the Recovery Act include:

1. To preserve and create jobs and promote economic recovery;
2. To assist those most impacted by the recession;
3. To provide investments needed to increase economic efficiency by spurring technological advances in science and health;
4. To invest in transportation, environmental protection and other infrastructure that will provide long-term economic benefits; and
5. To stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

Given the scope of the Recovery Act, many City departments have funding opportunities. To date, multiple grant applications across City departments have been submitted for Recovery Act funding.<sup>4</sup>

## **SCOPE AND METHODOLOGY**

This is the second in a series of reports the City Auditor will be issuing related to the Recovery Act. In order to document updates to federal Recovery Act guidance information and the City's progress on its relevant internal controls, we interviewed City staff, reviewed federal guidance and City documents, and observed the Recovery Act weekly meetings that the City Manager's Office's (CMO) holds with City staff. To assess the accuracy of reported expenditures, we reviewed a sample of transactions and their source documentation. To assess the completeness of Recovery Act reporting, we compared reported program expenditures with activity posted in the City's Financial Management System (FMS) and other City documents. We also reviewed the methodology City staff used to calculate the jobs created by Recovery Act expenditures in order to assess compliance with federal guidance.

We conducted our work in accordance with generally accepted government auditing standards. Those standards require that we plan and perform our work to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

## **KEY UPDATES TO RECOVERY ACT GUIDANCE AND INTERNAL CONTROLS**

The Recovery Act includes specific rules to ensure that funds are used for appropriate purposes and are transparent to the public. The federal government continues to update Recovery Act guidance. Recent updates include:

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<sup>4</sup> See [www.sanjoseca.gov/recoveryact](http://www.sanjoseca.gov/recoveryact) for up-to-date information on Recovery Act funds awarded to the City.

- May 11, 2009, *Payments to State Grantees for Administrative Costs of Recovery Act Activities*. Office of Management and Budget Memorandum ([http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-18.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-18.pdf))
- June 22, 2009, *Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009*. Office of Management and Budget Memorandum (<http://www.whitehouse.gov/omb/asset.aspx?AssetId=1412>)
- September 10, 2009, *The American Recovery & Reinvestment Act: DOJ Recovery Act Reporting – Grants and Cooperative Agreements*. Department of Justice Recipient Webinar (<http://www.ojp.gov/recovery/rawebinar.htm>)
- October 13, 2009, *Payments to State Grantees for their Administrative Costs for Recovery Act Funding – Alternative Allocation Methodologies*. Office of Management and Budget Memorandum ([http://www.whitehouse.gov/omb/assets/memoranda\\_2010/m10-03.pdf](http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-03.pdf))
- As of October 16, 2009, *Frequently Asked Questions: American Recovery and Reinvestment Act of 2009*. Office of Management and Budget ([http://www.whitehouse.gov/omb/recovery\\_faqs/](http://www.whitehouse.gov/omb/recovery_faqs/))

Since our last report, the City has implemented or is in the process of implementing the following accounting and transparency controls:

- *Registered and entered first quarter reports via [www.FederalReporting.gov](http://www.FederalReporting.gov)*. The federal Office of Management and Budget (OMB) clarified the Recovery Act's data reporting requirements and the methodology for calculating jobs created by Recovery Act expenditures. The OMB also provided guidance for recipients to conduct required data quality reviews of submitted data and introduced a new data portal for reporting, [www.FederalReporting.gov](http://www.FederalReporting.gov). The City has registered with [www.FederalReporting.gov](http://www.FederalReporting.gov) and submitted its required quarterly reports in accordance with the reporting requirements. Staff in the CMO met directly with program leads to discuss program activity to ensure data quality prior to submitting reports.
- *Established accounting controls to track Recovery Act expenditures*. Special funds, called memo funds, either have been or will be established within FMS for all programs to separately track Recovery Act activity to ensure transparency of Recovery Act funding.
- *Established an internal checklist to ensure compliance with Recovery Act requirements*. The CMO developed an internal checklist for departments to request CMO approval to submit grant applications for Recovery Act funds. The CMO requires departments to complete the checklist to provide the status of key Recovery Act requirements such as:
  - The project received a full review and vetting,
  - It is an appropriate use of taxpayer dollars,
  - The associated goods and services will be procured in a competitive manner,
  - The project will comply with prevailing wage requirements,

- The project will comply with the Recovery Act's Buy American provisions (unless a waiver is allowed), and
  - The use of funds will be timely.
- *Made progress toward implementing Recovery Act tracking and reporting software.* The City is in the process of finalizing a contract with Information Strategies (Infostrat) to implement a new Recovery Act tracking and reporting tool, Microsoft's Stimulus360 Solution. The software is expected to be implemented in November, 2009. As part of the agreement with Infostrat, they will provide an all day onsite training session for project staff and additional training for CMO staff who will act as the system administrator.
- *Posted Recovery Act information on City's website.* The City maintains a Recovery Act website ([www.sanjoseca.gov/recoveryact](http://www.sanjoseca.gov/recoveryact)) that includes a required project certification, signed by the City Manager, accepting responsibility for the appropriateness of an infrastructure investment. Also included are memoranda from the CMO to the City Council providing updates on Recovery Act activity, including:
  - July 31, 2009, *July Update on Recovery Act Projects*, and
  - October 21, 2009, *October Update on City Recovery Act Efforts*.

In our opinion, the City continues to make good progress towards establishing the appropriate internal controls over Recovery Act funding.

## **REVIEW OF FIRST QUARTERLY REPORTS**

Through September 30, 2009, the City has been awarded over \$77 million<sup>5</sup> in Recovery Act funds and spent approximately \$6.1 million. Approximately \$3.2 million has been reimbursed or advanced to the City. Thus far, the City's Recovery Act programs have created approximately 250 full-time equivalent jobs.

### *\$3.36 Million in Program Activity Reported Through FederalReporting.gov*

Prior to the October 10, 2009 reporting deadline, the City submitted its first quarterly reports for Recovery Act program activity. Exhibit 1 shows reported activity for programs that were awarded funds directly from federal agencies, as of September 30, 2009. None of these programs received cash reimbursements during this reporting period.

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<sup>5</sup> In addition to the \$33,787,807 listed in Exhibit 1, and the \$28,354,993 listed in Exhibit 2, the City has been awarded \$8,840,600 for the Energy Efficiency & Conservation Block Grant program and \$6,460,000 for South Bay Water Recycling Phase IC Facility Improvements. The City is in process of finalizing these agreements with the funding federal agencies.

**Exhibit 1: Recovery Act Program Activity Reported to FederalReporting.gov as of September 30, 2009**

<b>Program</b>	<b>Award</b>	<b>Reported Expenditures</b>	<b>Reimbursements/ Advances</b>	<b>Number of Jobs Created/ Retained</b>
Airport Terminal B Checked Baggage Screening Project <sup>6</sup>	\$20,916,360	\$3,344,903	\$0	10.4
Airport Taxiway “W” Extension	\$5,178,291	\$0	\$0	0
Homeless Prevention and Rapid Re-Housing Program (HPRP)	\$4,128,763	\$1,716	\$0	0
Community Development Block Grant (CDBG) <sup>7</sup>	\$2,700,463	\$0	\$0	0
Internet Crimes Against Children (ICAC)	\$863,930	\$14,662	\$0	0.4
Total	\$33,787,807	\$3,361,281	\$0	10.8

Source: City Auditor-prepared based on reports submitted to [www.FederalReporting.gov](http://www.FederalReporting.gov), the City’s Financial Management System, award documentation, and other City data.

*\$2.76 Million in Activity for Programs with Funding Passed Through State or County Agencies*

The City has been awarded additional Recovery Act funds that are passed through the State of California or Santa Clara County. For these programs, the City does not report expenditures or project data directly to [www.FederalReporting.gov](http://www.FederalReporting.gov). Instead, the programs comply with State or County reporting requirements. Exhibit 2 shows activity on these programs.

**Exhibit 2: Recovery Act Activity as of September 30, 2009 for Programs with Funding passed through State or County Agencies**

<b>Program</b>	<b>Award</b>	<b>Expenditures<sup>8</sup></b>	<b>Reimbursements/ Advances</b>	<b>Number of Jobs Created/ Retained</b>
Department of Transportation – Street Resurfacing	\$15,144,000	\$23,863	\$0	0
Work Investment Act (WIA) – Adult, Youth, and Dislocated Worker Programs	\$11,857,306	\$2,738,141	\$1,863,682	240
Justice Assistance Grant (JAG) <sup>9</sup>	\$1,353,687	\$0	\$1,353,687	0
Total	\$28,354,993	\$2,762,004	\$3,217,369	240

Source: City Auditor-prepared based the City’s Financial Management System, award documentation, and other City data.

<sup>6</sup> The City received approval for the Airport Baggage Screening Project on September 28, 2009 retroactive to April 2009. As of September 30, 2009, no reimbursements had been received.

<sup>7</sup> The City allocated \$1,122 in oversight costs to the CDBG program. These costs will be reported in the next reporting period.

<sup>8</sup> Expenditures reported by the State may not align with the FMS because of timing issues related to reimbursements or reporting schedules.

<sup>9</sup> The federal Department of Justice advances JAG grant funds and considers interest earned as program income that can be spent only on allowable JAG activities. Interest earned as of September 30, 2009 was \$2,305.

### *Data Quality Tests*

The CMO and program staff are responsible for data quality reviews.<sup>10</sup> After the City submitted its required reports, the City identified several minor changes to the reports. In accordance with Recovery Act guidance, these changes were either corrected during the data quality review period or will be corrected in the next quarterly reports.

We performed our audit during the data quality review period. We selected a sample of 25 transactions, including 21 expenditures totaling \$2.4 million that represented approximately 39 percent of total expenditures through September 30, 2009. Each program with activity had at least one transaction within the sample. We traced the transactions to source documents to determine whether they were accounted for and reported accurately. Source documentation existed for all sampled transactions.

Also, we compared reported expenditures with activity posted to the City's Recovery Act memo funds, department-level tracking spreadsheets and a CMO-prepared *Status of Recovery Act Applications* report to assess the completeness of Recovery Act quarterly reporting across programs. We found that all programs with reportable activity had submitted reports. Finally, we reviewed the methodologies and calculations for the number of jobs created by Recovery Act expenditures. The methodologies used by City staff to calculate the number of jobs created complied with federal guidance.

## **ISSUES**

The City Auditor will monitor the following issues in an advisory capacity and review them in future audits if applicable.

### 1. Recovery Act Oversight Costs

Oversight, reporting and auditing costs directly related to the Recovery Act are allowable administrative costs, however they are subject to specific limitations or requirements. Per OMB guidance, these additional costs should not exceed 0.5 percent of the total dollars. However, the oversight costs are being incurred by various agencies (e.g. states, cities, counties, other agencies, and grantees) and the City continues to wrestle with the question of how much the City will be allowed to charge.<sup>11</sup>

### 2. Recovery Act Website

One of the City's internal controls is that the CMO is responsible for keeping its Recovery Act website up-to-date. We noted that although the required certification is posted and the website meets Recovery Act requirements, other website sections had not been updated since August 2009. Although providing other information, such as project summaries, is not required by the Recovery Act, it reflects the City's commitment to transparency. According to the CMO,

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<sup>10</sup> The OMB requires data quality review processes and allows for corrections to the reports until the 29<sup>th</sup> day of the reporting month. Federal agencies are also responsible for data quality reviews during the 22<sup>nd</sup> through 29<sup>th</sup> days of the reporting month.

<sup>11</sup> Federal legislation was passed in the U.S. House, and is still in the Senate, that would provide funding for oversight to prevent and detect waste, fraud and abuse.

the website has not been updated regularly because of a combination of factors including limited staffing resources and unexpected technology glitches. CMO staff is working on solutions to update the website more frequently, such as training additional non-technical staff to do the routine uploads. Since we discussed this issue with the CMO, the website has been updated.

### 3. Procedures for Quarterly Reporting

After the Recovery Act reports were submitted, the City identified several minor changes. Although the minor corrections will be performed in accordance with federal Recovery Act guidance, the CMO can improve the consistency of the corrections process by tracking corrections and establishing procedures.

According to the federal Department of Justice (DOJ) which oversees the JAG and ICAC grants, agencies should establish written internal procedures to limit or prevent errors when collecting, reviewing, submitting or changing data. Furthermore, according to the DOJ, documentation should be included in formal policy, standard operating procedures and/or official operations manuals. The Police Department has indicated that it will establish written procedures as described in the guidance. These procedures may be applicable to other City programs.

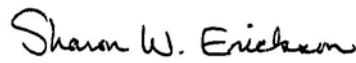
### 4. Timely Reimbursement of Funds

A potential issue is the timeliness of reimbursement requests. Recovery Act funds available to the City are received primarily on a reimbursement basis. Program leads are aware that they need to seek reimbursement in a timely manner in order to minimize interest costs to the City budget. As more programs expend Recovery Act funds, we will monitor the timeliness of reimbursement requests to minimize the City's interest costs.

## **CONCLUSION**

Based on our review, the City met the Recovery Act's transparency and accountability requirements for quarterly reporting as of September 30, 2009. The City continues to make progress on establishing key internal controls. Future audits will verify compliance with Recovery Act requirements and provisions and assess the accuracy and appropriateness of expenditures.

We reviewed this report with the City Manager's Office and the pertinent City departments. The City Auditor's Office thanks the management and staff from the City Manager's Office, the Finance Department, the City Manager's Budget Office, and departments with Recovery Act programs for their time, information, insight and cooperation during the preparation of this report. The City Auditor's staff who participated in the preparation of this report are Steven Hendrickson, Ruth Merino and Joe Rois.



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